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November 22, 1999

Tel: 303-926-7606

Clifford Hawkes  
National Park Service  
Denver Service Center  
12795 West Alameda Parkway  
Lakewood, Colorado 80228

Re: Additional comments on Winter Use Plans Draft  
Environmental Impact Statement (EIS) for the Yellowstone  
and Grand Teton National Parks and John D. Rockefeller,  
Jr. Memorial Parkway

Dear Mr. Hawkes:

The Biodiversity Legal Foundation (BLF) is a non-profit, science based, conservation organization dedicated to the preservation of all native wild plants and animals, communities of species, and naturally functioning ecosystems. Through reasoned educational, administrative, and legal actions, the BLF endeavors to encourage improved attitudes and policies for all living things. The BLF has been involved in winter recreation planning for our National Parks for the past 10 years.

The following is the Biodiversity Legal Foundation's commentary on the National Park Service's (NPS's) Winter Use Plan and Draft EIS:

1. To assist the Park Service in its analysis of recreational impacts, we have enclosed a copy of our most up-to-date (Fall 1999) BLF bibliography regarding the environmental impacts of recreation (221 pp.). Contained in this extensive bibliography are hundreds of articles and reports concerning the impacts of snowmobiles on the natural environment. Please include this bibliography in the formal administrative record and review all of the pertinent and applicable

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literature before making a final decision.

2. The Winter Use EIS is supposed to be a long term planning document for winter use activities in the Parks. By law, the EIS must contain the best available scientific evidence. The mere fact that some of the ongoing winter use studies will not be completed in time to be incorporated into the EIS does not permit the NPS to avoid long term decisions regarding winter use management.
3. The Winter Use EIS must establish long term policies for winter use activities in the Park. It should not be used as a mechanism to promote years of additional study of winter use impacts while delaying substantive changes in environmentally harmful winter use activities.
4. The preliminary list of EIS alternatives published by the NPS is entirely unacceptable. The current list of alternatives provides no substantive change in winter use activities, particularly snowmobiling and trail grooming, despite the overwhelming evidence that such activities have adverse impacts on the environment, wildlife, air quality, and other Park attributes. Most of the alternatives either maintain the status quo or actually promote an increase in human use of the Park during the winter. At present, the NPS has not developed a reasonable range of alternatives and must, at a minimum, include a no-snowmobiling/no-trail-grooming alternative in its analysis. In addition, the EIS must contain a comprehensive analysis of its statutory and regulatory mandates and how these mandates apply to snowmobile use. Specifically, is snowmobiling, as we know it today, even authorized under the legislation establishing Yellowstone National Park?
5. The involvement of the states and local counties as cooperators in the EIS may have corrupted the process and provided these entities with an unacceptable influence in the long term winter use management decisions for these Parks. These entities do not meet the legal criteria to qualify as cooperators, because their expertise is limited to the economic impacts of winter use. NEPA requires that cooperators have expertise with respect to any environmental impact involved in a proposal.



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6. The NPS should close down one or, preferably, more trails to snowmobile use during the winter of 1999-2000 to assess the impact of such closures on bison use of the area. The NPS originally proposed to take this action but then, due to political pressures, decided to abandon this strategy despite its own claim that this information was necessary for analysis in the EIS. Though a court has upheld the NPS decision on this matter, the court did not say that closing one or more trails would not produce useful data important for analysis in the EIS. The NPS has the authority to close one or more trails during the winter of 1999-2000 and should exercise this authority to collect this data for analysis in the EIS. No new NEPA analysis is necessary to justify such closures.
7. Additional studies that the NPS should initiate during the winter of 1999-2000 include: expansion of snowmobile emission studies to include polycyclic aromatic hydrocarbons and Methyl Tertiary Butyl Ether, assessment of the impacts of pollutants, including snowmobile emissions, on Park vegetation, assessment of the impact of snowpack pollutants on water chemistry and the aquatic ecosystem during spring snowmelt, initiation of a snowmobile sound monitoring program, assessment of the National Park values (i.e., serenity, solitude, naturalness) important to the general public beyond those people who use Yellowstone or Grand Teton National Parks in the winter, and analysis of all existing telemetry points for radio-collared bison in relationship to groomed or plowed roads in the Parks.
8. The most up to date scientific data available confirms that snowmobile recreation in the Parks results in the harassment of many wildlife species, including bison, elk, mule deer, bald eagles, trumpeter swans, coyotes, wolves, and a variety of other species. Snowmobiles may displace these animals from important habitat, force the animals to use extra energy to flee from approaching machines, disrupt feeding activities, and kill wildlife. These impacts, if frequent or severe enough, may adversely impact animal productivity and can result in death.
9. Degrading and illegal air emissions: Snowmobiles release enormous amounts of pollutants into the air. Two-stroke engines used to power most snowmobiles release 25-30% of their gas/oil fuel mixture directly into the environment. According to a recent NPS

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study, on a peak day when 2000 snowmobiles enter the Park, 32 tons (64,000 pounds) of hydrocarbons and 88 tons (176,000 pounds) of carbon monoxide are emitted. Over the course of an entire winter, when more than 60,000 snowmobiles enter the Park, that adds up to 1,200 tons (2,400,000 pounds) of hydrocarbons and 2,400 tons (4,800,000 pounds) of carbon monoxide. During one winter, snowmobiles emit 78% of all carbon monoxide and 94% of all hydrocarbons released during the entire year, even though cars and other vehicles vastly outnumber snowmobiles. As a result of snowmobile emissions, federal and state air quality standards have been violated several times in the past. In fact, on February 21, 1995, carbon monoxide levels at the West Entrance of Yellowstone were the highest recorded anywhere in the country. Excessive carbon monoxide at the West Entrance has made Park personnel sick and poses serious health risks to snowmobilers. Snowmobile pollutants which collect in the snowpack may cause deleterious impacts to aquatic species and their habitat upon spring snowmelt.

The Parks should set the standard for clean air, clean water, serenity, and solitude; they should not be playgrounds for pollution belching, loud machines which destroy air and water quality and shatter any semblance of serenity and solitude.

10. The number, noise, and stench of snow mobiles in the Parks substantially degrades the Park experience for non-motorized users (i.e., cross-country skiers, snowshoers). Though natural quiet and clean air are important aspects of a National Park visit, these values are destroyed by snowmobile use. Snowmobiles also are antithetical to the preservation of serenity and solitude in the Parks.
11. Trail grooming to facilitate snowmobile use exacerbates snowmobile impacts. Yellowstone bison, for example, use the groomed trails as energy efficient travel routes to move within and outside of the Park. Once bison leave Yellowstone, many are shot or slaughtered by the Montana Department of Livestock to reduce the perceived, but unsubstantiated, risk of bacteria transmission from bison to cattle. Bison use of groomed trails has not only affected population distribution, movement, and habitat use patterns, but it also has reduced natural winter kill and increased productivity, allowing the bison population to increase to an unnatural size.

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According to Dr. Mary Meagher, the world's foremost authority on wild bison, groomed trails are not only the major factor influencing bison movement outside of Yellowstone, but the trails caused the bison population, in 1994, to be approximately double the size it would have been if groomed trails did not exist in the Park. Prohibiting snowmobiles, snow coaches, and trail grooming in Yellowstone would likely result in a reduction in the size of the Park's bison population and a substantial decrease in the number and rate of bison moving out of the Park where they are killed. Other animals, including elk, mule deer, coyotes, and wolves, also use and may be affected by the groomed trail system.

12. Even grizzly bears, most of whom remain in their dens during the winter season, are adversely impacted by groomed trails. Ungulate carcasses are critically important to grizzly bears, particularly females with cubs, during the spring, but grizzlies won't use carcasses which are close to roads or human settlements. Ungulate, including bison, attraction to and use of groomed trails not only reduces natural winter kills, but the animals who do succumb to winter kill die near the groomed trails which makes their carcasses less available to bears in the spring.
13. Despite the substantial impacts, the NPS fails to consider an alternative in the DEIS which would ban snowmobiles, snow coaches, and trail grooming. As written, the DEIS offers seven alternatives, all of which would modify winter use activities, including snowmobile use to some degree but many of which either allow snowmobile use to continue virtually unchanged (except for some noise and pollution emission modifications under some alternatives), increase snowmobiling opportunities, or increase public use of the Parks in the winter to the detriment of Park wildlife, wildlands, geologic features, and other Park amenities.

The failure of the NPS to consider, given the overwhelming scientific evidence, an alternative which prohibits snowmobiles, snow coaches, and trail grooming is even more egregious, considering the legal mandate to "conserve the scenery . . . and the wildlife therein . . . as will leave them unimpaired for the enjoyment of future generations." In addition, NPS regulations specify that snowmobiling can only be permitted where it will not "disturb

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wildlife or damage park resources." Snowmobiling and trail grooming clearly violate these legal standards but continue to be permitted in the Parks because of political and local pressures. The NPS should not permit these interests to dictate the continued mismanagement of the Parks to the detriment of Park wildlife and wildlands and to that of the future health and vitality of these magnificent wild places.

14. A new alternative is required that protects the Parks and the long term national public interest. The NPS has failed to develop any alternative which complies with its legal mandate while also protecting the diverse wildlife, wildlands, and other attributes of the Parks. The BLP fully supports The Fund for Animals' "Natural Regulation Alternative" that would accomplish those objectives. The Natural Regulation Alternative is an independent alternative which, if implemented, would: 1) prohibit snowmobiles, snow coaches, and trail grooming in the Parks; 2) minimize road plowing, and 3) evaluate and develop an elevated monorail system to permit public access to the Parks year-round in a manner which would substantially reduce environmental impacts. This alternative would restore natural regulation as the primary management tool for Yellowstone's wildlife, it would reduce the number and rate of bison leaving the Park to be shot or slaughtered by the Montana Department of Livestock, restore the ecological integrity of the Parks, maximize the experience of serenity and solitude when visiting the Parks, and, in time, would permit public access to the Parks year-round with far fewer environmental impacts. The Natural Regulation Alternative would not close the Parks to winter use since non-motorized uses (i.e., cross country skiing, snowshoeing, and automobile access between Gardiner, Montana and Cooke City, Montana) would still be permitted.
15. Local economic pump priming vs. national concerns: The NPS is not beholden to the economic needs of the Gateway communities (West Yellowstone, Montana; Gardiner, Montana; Cody, Wyoming; Jackson, Wyoming) and should not manage the Parks to protect the economies of these cities. The prohibition of snowmobiling and snow coach use would not seriously impact the revenue of these cities and, indeed, could be a blessing by forcing them to diversify. If the NPS is going to consider the economic impacts of its proposed alternatives, then this must include an

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analysis of the economic costs of continuing to permit snowmobiles in the Parks, including the cost of pollution, the killing of bison outside the Park, and the cost to the Park's ecology from continued degradation.

16. Additional legal issues: the spirit and mandate of various federal laws such as the Organic Act, the Endangered Species Act, and the Clean Air Act, as well as executive orders 11644 and 11989 direct the NPS to prohibit any recreational activity that causes lasting damage to Park resources and wildlife. Now is the time for the National Park Service to live up to these obligations and fully protect this country's premier wildlife Parks.
17. Conclusion: The continuance of private and commercial snowmobiling in the Parks violates the NPS statutes and regulations which clearly prohibit public uses of the Parks which result in adverse impacts to wildlife, air and water quality, non-motorized recreationists, and Park ecology. With hundreds of thousands of acres of other federal land open to snowmobile use in the Greater Yellowstone Ecosystem, there is no reason to permit snowmobiling in the Parks.

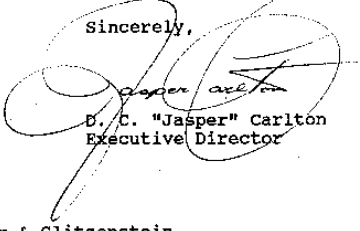
The NPS must give full consideration to a long term public interest alternative which would prohibit snowmobiles, snow coaches, and trail grooming. Failure to do so violates the National Environmental Policy Act.

The Biodiversity Legal Foundation urges the NPS to adopt The Fund for Animals' Natural Regulation Alternative as its preferred winter use management plan for the Parks. This alternative bans snowmobiles, snow coaches, and trail grooming in the Parks; minimizes road plowing; and promotes the development of an elevated monorail system to facilitate, but control, year round public use of the Parks while reducing the environmental impacts of such use. We hope the National Park Service has the dedication and internal fortitude to make a final decision that is in the best interests of the ecological health of these priceless and irreplaceable National Parks.

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Thank you for your consideration of our comments.

Sincerely,



D. C. "Jasper" Carlton  
Executive Director

Copy: Meyer & Glitzenstein

<b>BIODIVERSITY LEGAL FOUNDATION</b>
<p>Page 2.Re: EIS as a long-term planning document and ongoing winter use studies. Studies monitoring and data collection relative to winter use are and will be ongoing in the park units. By this EIS and the eventual decision, NPS does not foreclose on any necessary management actions for park protection that might be precipitated in the future.</p>
<p>Page 2. Re: Preliminary list of EIS alternatives. “The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government (§1502.1).” “The range of alternatives discussed in an [EIS] shall encompass those to be considered by the ultimate agency decision maker (§1502.2 (e)).” The purpose and need for action described in the DEIS is sufficiently broad to act as an action-forcing tool. It is within the discretion of the decision maker to set the scope of analysis. Considering that motorized use in the Parks is an existing use, not a proposed use, it is logical to frame the purpose and need in terms that would include that use and facilitate an incremental investigation of the impacts of that use. To do otherwise would result in a narrow scope of analysis and one viable alternative relative to motorized use. The settlement agreement that resulted in a need to develop this EIS requires a comprehensive evaluation of winter recreation use. The presumption that only nonmotorized use should be considered in light of policy, law, regulation and existing use, is not appropriate. NPS disagrees that all alternatives represent the status quo, and that there is overwhelming evidence that certain activities adversely affect the resources to a degree that their preservation is not ensured.</p>
<p>Page 2. Re: Statutory and regulatory mandates and their application to snowmobile use. Sufficient documentation on this point is in the DEIS.</p>
<p>Page 2. Re: Involvement of cooperating agencies. The intent of granting cooperating agency status was in the spirit of cooperation and coordination consistent with NEPA, FACA and APA. The content of the document has been affected, but NPS disagrees that the analysis has been. The document incorporates material from the cooperating agencies, which is reported as a matter of full disclosure even though the results disagree with NPS analysis. Letters from the cooperators and the signed agreements between NPS and cooperators were included in the DEIS, Volume II. These items relate to content. As to inappropriate influence, one need only review media reports, comment letters or other correspondence from the cooperators to obtain their assessment of how they were involved and how influential they feel they have been in the process.</p>
<p>Page 3. Re: Trail closures during winter 1999-2000. A comment about what NPS should have done in the winter of 1999-2000 is moot at this time.</p>
<p>Page 3. Re: Additional studies that NPS should initiate during the winter of 1999-2000. Additional data collection has been undertaken with respect to sound. Additional air quality models have been run. Information is available on snowpack chemistry that was not usable in the DEIS.</p>
<p>Page 3. Re: Impacts on wildlife species. The impacts on all potentially affected species are disclosed in the DEIS.</p>
<p>Page 3. Re: Impacts on air quality. The impacts of snowmobiles on air quality are disclosed in the DEIS.</p>
<p>Page 4. Re: The parks should set the standard for clean air, clean water, serenity, and solitude. The function of various provisions in the range of alternatives is to set limits on impacts, and to set standards/objectives for management in identified zones within the parks.</p>
<p>Page 4. Re: Impacts due to snowmobile use. These impacts are disclosed in the DEIS.</p>
<p>Page 4. Re: Impacts on bison due to trail grooming. Impacts on bison have been evaluated and disclosed in the DEIS. Mary Meagher’s work was available for use in the DEIS, and it is cited appropriately.</p>
<p>Page 5. Re: Impacts on grizzly bears. Impacts on grizzly bears have been evaluated and disclosed in the DEIS.</p>

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Page 5. Re: NPS fails to consider an alternative that would ban snowmobiles, snowcoaches, and trail grooming.

“The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act [NEPA] are infused into the ongoing programs and actions of the Federal Government (§1502.1).” “The range of alternatives discussed in an [EIS] shall encompass those to be considered by the ultimate agency decision maker (§1502.2(e)).” The purpose and need for action described in the DEIS is sufficiently broad to act as an action-forcing tool. It is within the discretion of the decision maker to set the scope of analysis. Considering that motorized use in the Parks is an existing use, not a proposed use, it is logical to frame the purpose and need in terms that would include that use and facilitate an incremental investigation of the impacts of that use. To do otherwise would result in a narrow scope of analysis and one viable alternative relative to motorized use. The settlement agreement that resulted in a need to develop this EIS requires a comprehensive evaluation of winter recreation use – the presumption that only nonmotorized use should be considered in light of policy, law, regulation and existing use, is not appropriate. NPS disagrees that all alternatives represent the status quo, and that there is overwhelming evidence that certain activities adversely affect the resources to a degree that their preservation is not ensured.

The detriment of actions on park resources is not determined until the requisite environmental analysis determines it to be so. That is the function of an incremental analysis facilitated by the alternatives in this EIS. The decision to be made will weigh the effects analysis and make a determination about the extent of allowable activities in light of park mandates, executive orders, regulations and policies.

Page 6. Re: Snowmobiling and trail grooming clearly violate legal standards. There is nothing in literature that conclusively demonstrates that the resources of the 3 park units have exceeded an “impairment standard.” There are a great number of inferences drawn from general studies, or studies that were undertaken elsewhere. Results are extrapolated to the 3 park units, where conditions or circumstances are not demonstrated in the literature to be applicable. There is very little in the literature to provide a solid basis for determining at what point a potential impact becomes an adverse effect on park resources. This is contrary to the commenter’s apparent assumption that “impairment standards” are self-evident and agreeable to all. It is the function of the EIS to disclose the extent, magnitude and duration of impacts within the park units to the degree necessary for programmatic planning. NPS maintains that the standard of impairment can be a function of the criteria used by a decision maker in the record of decision, considering impacts disclosed in the EIS.

Page 6. Re: Requirement of a new alternative. NPS disagrees that a new alternative is required. BDF predicates this assertion on a disagreement about the purpose and need for action. CEQ regulations require a range of alternatives sufficient to meet the purpose and need for action (§1502.13). The purpose and need for action is discretionary to the agency and the decision maker (§1500.4(g) and §1501.7(a)(2)) to set the scope of analysis. It is clear the commenter disagrees with the purpose and need. If the court settlement carried as much weight as the commenter feels, it seems there would be no need to actually perform an environmental analysis.

Page 6. Re: Local economic pump priming vs. national concerns. The commenter is undoubtedly aware that the consideration of social and economic impacts is routinely done in any environmental analysis. There are several major reasons for this. First, the scoping process as conducted under §1501.7 inevitably raises the social and economic effects of a proposed action. In many instances, these are regarded as significant issues. Second, the impacts must be considered in the context of society as a whole, the affected region, the affected interests, and the locality (§1508.27(a)). Third, the intensity of impacts on the quality of the human environment must be gauged (§1508.27(b)), where “human environment” is to be viewed comprehensively (§1508.14). Effects (direct, indirect and cumulative) are defined as including both economic and social impacts (§1508.8). As disclosed in the EIS economic impacts on a regional level are negligible, and it is our assessment that the business community would adapt to such changes that might accrue to any of the alternatives.

Page 7. Re: Additional legal issues. Sufficient documentation relative to NPS mandates, executive orders, regulations and policy may be found in the DEIS. The final decision must be consistent with this guidance.